



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2
290 BROADWAY
NEW YORK, NY 10007-1866

DEC 28 2012

200369



GENERAL NOTICE LETTER
URGENT LEGAL MATTER
PROMPT REPLY NECESSARY
CERTIFIED MAIL: RETURN RECEIPT REQUESTED

Apogent Transition Corp.
Apogent Technologies Inc.
c/o Thermo Fisher Scientific, Inc.
Marc N. Casper, President and Chief Executive Officer
81 Wyman Street
Waltham, MA 02451

Re: Standard Chlorine Chemical Company ("SCCC") Superfund Site in Kearny,
Hudson County, New Jersey: General Notice Letter

Dear Mr. Casper:

The U.S. Environmental Protection Agency ("EPA") has received and reviewed Thermo Fisher Scientific, Inc.'s ("Thermo Fisher") and Apogent Transition Corp.'s ("Apogent Transition") responses dated January 31, 2011, February 1, 2011, March 7, 2011, March 17, 2011, and September 26, 2012 to its Information Requests, dated November 16, 2010, and August 10, 2012, which were sent to Thermo Fisher in connection with the Standard Chlorine Chemical Company ("SCCC") Superfund Site ("the Site") located at 1025-1035 Belleville Turnpike in Kearny, New Jersey. Based on these responses and other available information, EPA has determined that Apogent Transition and Apogent Technologies Inc. ("Apogent Technologies") may be responsible under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended ("CERCLA"), commonly known as the federal "Superfund" law, for cleanup of the Site and/or costs EPA has incurred in cleaning up the Site.

Explanation of Potential Liability

Under CERCLA, specifically Sections 106(a) and 107(a), potentially responsible parties ("PRPs") may be required to perform cleanup actions to protect the public health, welfare, or the environment. PRPs may also be responsible for costs incurred by EPA in cleaning up a site, unless the PRP can show divisibility or any of the other statutory defenses. PRPs include current and former owners and operators of a site, as well as persons who arranged for treatment and/or disposal of any hazardous substances found at a site, and persons who accepted hazardous substances for transport and selected a site to which the hazardous substances were delivered.

Based on the information collected, EPA believes that Apogent Transition may be liable under Section 107(a) of CERCLA with respect to the Site as the direct corporate successor to Tanatex

Chemical Corporation, which was a previous operator at the Site. Tanatex Chemical Corporation operated on Lot 50 of the Site from approximately 1954 to 1964 and was engaged in the manufacture of specialty chemicals for the manufacture of textiles, leather and paper. In addition, EPA believes that Apogent Technologies, the sole shareholder of Apogent Transition, may be liable under Section 107(a) of CERCLA.

To date, EPA and the State of New Jersey have taken several response actions at the Site under the authority of its respective Superfund and other Programs to reduce any immediate threat to the environment or human health posed by the Site. Additional response actions are ongoing at the Site and will be continuing in the future.

As you may be aware, the Group of Cooperating Parties (which includes Beazer East, Cooper Industries, and Tierra Solutions, Inc. (on behalf of Occidental Chemical Corporation)) is currently in negotiations with EPA to enter into an Administrative Settlement Agreement and Order on Consent ("AOC") to perform the Remedial Investigation/Feasibility Study at the Site. By this letter, EPA invites Apogent Transition and Apogent Technologies to be a part of these negotiations by contacting the Site attorney, Frances M. Zizila, by telephone at (212) 637-3135 or via electronic mail at zizila.frances@epa.gov, within fourteen (14) days of your receipt of this letter.

Financial Concerns/Ability to Pay Settlements

EPA is aware that the financial ability of some PRPs to contribute toward the payment of response costs at a site may be substantially limited. If you believe, and can document, that you fall within that category, please contact Ms. Zizila for information on "Ability to Pay Settlements." In response, the company will receive a package of information about the potential for such settlements and a form to fill out with information about the company's finances, and the company will be asked to submit financial records including business federal income tax returns.

Also, please note that, because EPA has a potential claim against Apogent Transition and Apogent Technologies, it must include EPA as a creditor if the company files for bankruptcy.

Information to Assist You

EPA would like to encourage communication among Apogent Transition and Apogent Technologies, other PRPs, and EPA at the Site. Several of the PRPs have already created a "steering committee," known as the "Group of Cooperating Parties." EPA recommends that Apogent Transition and Apogent Technologies become members of this group. If this is not possible, EPA encourages each PRP to select one person from its company or organization to represent its interests to EPA.

To assist you in your efforts to communicate, please find the following enclosed information:

1. A list of names and addresses of the members of the Group of Cooperating Parties.
2. A fact sheet that describes the Site.

EPA has established an Administrative Record that contains documents that serve as the basis for EPA's selection of a cleanup action for the Site. The Administrative Record is available for inspection at the Superfund Records Center, EPA Region 2, located at 290 Broadway, 18th Floor, New York, NY 10007.

Resources and Information for Small Businesses

As you may be aware, on January 11, 2002, President Bush signed into law the Superfund Small Business Liability Relief and Brownfields Revitalization Act. This Act contains several exemptions and defenses to CERCLA liability, which we suggest that all parties evaluate. You may obtain a copy of the law via the Internet at <http://www.epa.gov/swerosps/bf/sblrbra.htm> and review EPA guidance regarding these exemptions at <http://www.epa.gov/compliance/resources/policies/cleanup/superfund>.

EPA has created a number of helpful resources for small businesses. EPA has established the National Compliance Assistance Clearinghouse as well as Compliance Assistance Centers which offer various forms of resources to small businesses. You may inquire about these resources at www.epa.gov. In addition, the EPA Small Business Ombudsman may be contacted at www.epa.gov/sbo. Finally, EPA developed a fact sheet about the Small Business Regulatory Enforcement Fairness Act ("SBREFA"), which is enclosed with this letter.

Please give these matters your immediate attention and consider consulting with an attorney. If you have any questions regarding this letter, please contact the Site attorney, Ms. Zizila, at either (212) 637-3135 or zizila.frances@epa.gov. Thank you for your prompt attention to this matter.

Sincerely,



Nicoletta Di Forte
Senior Enforcement Policy Advisor
Emergency and Remedial Response Division

Enclosures

cc: Alison Hess, EPA
Frances M. Zizila, EPA
J. Forrest Jones, Esq., Thermo Fisher Scientific, Inc.
Lori Mills, Esq., Tierra Solutions, Inc. on behalf of Occidental Chemical Corporation
Charles McChesney II, Esq., Beazer East, Inc.
Gary Gengel, Esq., Cooper Industries, LLC
Davon Collins, Esq., Cooper Industries, LLC

Standard Chlorine List of Existing Potentially Responsible Parties

**Standard Chlorine Chemical Co., Inc.
Standard Naphthalene Products Co., Inc.**

Margaret Kelly, VP and General Counsel
Standard Chlorine Chemical Co., Inc.
Standard Naphthalene Products Co., Inc.
1035 Belleville Turnpike
Kearny, New Jersey 07032
Mwkscc1@aol.com

Tierra Solutions, Inc. & Occidental Chemical Corporation

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East Brunswick, NJ 08816
David Rabbe, Director, Environmental Remediation

Occidental Chemical Corporation
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Inhouse Counsel:

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Standard Chlorine Chem Co. Inc.

New Jersey

EPA ID#: NJD002175057

EPA REGION 2 Congressional District(s): 09

Hudson
Kearny

NPL LISTING HISTORY
Proposed Date: 4/30/2003
Final Date: 9/19/2007

Site Description

The Standard Chlorine Chemical Co. Inc. (SCCC) Site occupies an area of approximately 25 acres in a heavily industrialized area of Kearny, New Jersey. The SCCC property is bounded by the Hackensack River to the northeast, Belleville Turnpike to the southwest, the Diamond property to the north and northwest, and the Koppers Seaboard property to the southeast. The Diamond and Koppers Seaboard properties are also chemically contaminated by prior industrial uses and are being addressed under the State's Brownfields program. Manufacturing operations were conducted at the SCCC Site by various entities between 1916 and 1993, and included the refining of naphthalene, the manufacture of products from naphthalene, naphthalene derivatives, and dichlorobenzenes, the formulation of drain cleaning products, and the processing of trichlorobenzene. Several abandoned buildings in various states of disrepair are located on the property. Surface features include two connected lagoons located on the eastern end of the property as well as a drainage ditch that runs along the southern perimeter of the property and empties into the Hackensack River. A railroad right-of-way, the site of a former rail spur which is currently owned by the Hudson County Improvement Authority, is located west of the lagoon area and crosses the property in a north-south fashion.

Site responsibility: The Site is being addressed through a combination of Federal, state and potentially responsible party (PRP) actions.

Threat and Contaminants

The main contaminants at the Site are aromatic compounds including naphthalene and dichlorobenzene, as well as dioxin and chromium.

Cleanup Approach

The Site is being addressed in two stages: interim response actions (IRAs) designed primarily to stop the migration of contaminated groundwater and surface water into the Hackensack River, and a long-term remedial phase which will focus on comprehensive site remediation.

Cleanup Progress

Earlier State-directed response activity has resulted in off-site disposal of asbestos wastes, as well as sampling and analytical characterization of soil and groundwater to help define the nature and extent of contamination.

A group of PRPs have implemented interim response actions under an approved IRA work plan to prevent the migration of groundwater and surface water contamination to the Hackensack River. A slurry wall was installed around the Site perimeter, including a bulkhead between the property and the River. The IRA also included consolidation and interim capping within the lagoon area of certain contaminated soils/sediments from around the Site, and the off-site disposal of containerized asbestos and other contaminated materials from earlier site activity. These PRPs submitted an Interim Remedial Action Report in December 2011 to document completion of the IRA slurry wall construction and soil consolidation and capping work. The IRA activities also include demolition of certain buildings, and a second Interim Remedial Action Report will be submitted in March 2012 to document that building demolition. The State of New Jersey provided oversight of the IRA, in consultation with EPA.

EPA negotiated a removal order with the PRPs to board up existing structures on the Standard Chlorine property prior to

their planned demolition.

In 2008, EPA initiated the process of a comprehensive site investigation for long-term cleanup options. The State of New Jersey will serve in a consultation capacity to EPA.

Site Repositories

USEPA Region 2 Superfund Records Center 290 Broadway, 18th Floor New York, NY 10007-1866



Office of Enforcement and Compliance Assurance

INFORMATION SHEET

U. S. EPA Small Business Resources

If you own a small business, the United States Environmental Protection Agency (EPA) offers a variety of compliance assistance resources such as workshops, training sessions, hotlines, websites, and guides to assist you in complying with federal and state environmental laws. These resources can help you understand your environmental obligations, improve compliance, and find cost-effective ways to comply through the use of pollution prevention and other innovative technologies.

Compliance Assistance Centers

(www.assistancecenters.net)

In partnership with industry, universities, and other federal and state agencies, EPA has established Compliance Assistance Centers that provide information targeted to industries with many small businesses.

Agriculture

(www.epa.gov/agriculture or 1-888-663-2155)

Automotive Recycling Industry

(www.ecarcenter.org)

Automotive Service and Repair

(www.ccar-greenlink.org or 1-888-GRN-LINK)

Chemical Industry

(www.chemalliance.org)

Construction Industry

(www.cicacenter.org or 1-734-995-4911)

Education

(www.campuserc.org)

Healthcare Industry

(www.hercenter.org or 1-734-995-4911)

Metal Finishing

(www.nmfrc.org or 1-734-995-4911)

Paints and Coatings

(www.paintcenter.org or 1-734-995-4911)

Printed Wiring Board Manufacturing

(www.pwbrc.org or 1-734-995-4911)

Printing

(www.pneac.org or 1-888-USPNEAC)

Transportation Industry

(www.transource.org)

Tribal Governments and Indian Country

(www.epa.gov/tribal/compliance or 202-564-2516)

US Border Environmental Issues

(www.bordercenter.org or 1-734-995-4911)

The Centers also provide State Resource Locators

(www.envcap.org/statetools/index.cfm) for a wide range of topics to help you find important environmental compliance information specific to your state.

EPA Websites

EPA has several Internet sites that provide useful compliance assistance information and materials for small businesses. If you don't have access to the Internet at your business, many public libraries provide access to the Internet at minimal or no cost.

EPA's Home Page

www.epa.gov

Small Business Gateway

www.epa.gov/smallbusiness

Compliance Assistance Home Page

www.epa.gov/compliance/assistance

Office of Enforcement and Compliance Assurance

www.epa.gov/compliance

Voluntary Partnership Programs

www.epa.gov/partners



U.S. EPA SMALL BUSINESS RESOURCES

Hotlines, Helplines & Clearinghouses

(www.epa.gov/epahome/hotline.htm)

EPA sponsors many free hotlines and clearinghouses that provide convenient assistance regarding environmental requirements. A few examples are listed below:

Clean Air Technology Center

(www.epa.gov/ttn/catc or 1-919-541-0800)

Emergency Planning and Community Right-To-Know Act

(www.epa.gov/superfund/resources/infocenter/epcra.htm or 1-800-424-9346)

EPA's Small Business Ombudsman Hotline provides regulatory and technical assistance information.

(www.epa.gov/sbo or 1-800-368-5888)

The National Environmental Compliance Assistance Clearinghouse provides quick access to compliance assistance tools, contacts, and planned activities from the U.S. EPA, states, and other compliance assistance providers (www.epa.gov/clearinghouse)

National Response Center to report oil and hazardous substance spills.

(www.nrc.uscg.mil or 1-800-424-8802)

Pollution Prevention Information Clearinghouse

(www.epa.gov/opptintr/ppic or 1-202-566-0799)

Safe Drinking Water Hotline

(www.epa.gov/safewater/hotline/index.html or 1-800-426-4791)

Stratospheric Ozone Refrigerants Information

(www.epa.gov/ozone or 1-800-296-1996)

Toxics Assistance Information Service also includes asbestos inquiries.

(1-202-554-1404)

Wetlands Helpline

(www.epa.gov/owow/wetlands/wetline.html or 1-800-832-7828)

State Agencies

Many state agencies have established compliance assistance programs that provide on-site and other types of assistance. Contact your local state environmental agency for more information or the following two resources:

EPA's Small Business Ombudsman

(www.epa.gov/sbo or 1-800-368-5888)

Small Business Environmental Homepage

(www.smallbiz-enviroweb.org or 1-724-452-4722)

Compliance Incentives

EPA provides incentives for environmental compliance. By participating in compliance assistance programs or voluntarily disclosing and promptly correcting violations before an enforcement action has been initiated,

businesses may be eligible for penalty waivers or reductions. EPA has two policies that potentially apply to small businesses:

The Small Business Compliance Policy

(www.epa.gov/compliance/incentives/smallbusiness)

Audit Policy

(www.epa.gov/compliance/incentives/auditing)

Commenting on Federal Enforcement Actions and Compliance Activities

The Small Business Regulatory Enforcement Fairness Act (SBREFA) established an SBA Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. If you believe that you fall within the Small Business Administration's definition of a small business (based on your North American Industry Classification System (NAICS) designation, number of employees, or annual receipts, defined at 13 C.F.R. 121.201; in most cases, this means a business with 500 or fewer employees), and wish to comment on federal enforcement and compliance activities, call the SBREFA Ombudsman's toll-free number at 1-888-REG-FAIR (1-888-734-3247).

Every small business that is the subject of an enforcement or compliance action is entitled to comment on the Agency's actions without fear of retaliation. EPA employees are prohibited from using enforcement or any other means of retaliation against any member of the regulated community in response to comments made under SBREFA.

Your Duty to Comply

If you receive compliance assistance or submit comments to the SBREFA Ombudsman or Regional Fairness Boards, you still have the duty to comply with the law, including providing timely responses to EPA information requests, administrative or civil complaints, other enforcement actions or communications. The assistance information and comment processes do not give you any new rights or defenses in any enforcement action. These processes also do not affect EPA's obligation to protect public health or the environment under any of the environmental statutes it enforces, including the right to take emergency remedial or emergency response actions when appropriate. Those decisions will be based on the facts in each situation. The SBREFA Ombudsman and Fairness Boards do not participate in resolving EPA's enforcement actions. Also, remember that to preserve your rights, you need to comply with all rules governing the enforcement process.

EPA is disseminating this information to you without making a determination that your business or organization is a small business as defined by Section 222 of the Small Business Regulatory Enforcement Fairness Act or related provisions.